MEMORANDUM OF POINTS AND AUTHORITIES

JUDGE PREJUDICIALLY ERRED BY MALICIOUS IGNORANCE OF PETITIONER'S MERITORIOUS ARGUMENT

On 03232016, Judge Steven L. Mock based his denial of Petitioner's motion at issue upon the reasoning oversimply that Petitioner "… failed to present evidence that would warrant dismissal of the charges based on (his) assertion that the prosecution or law enforcement has retaliated… or that this is malicious prosecution" (*Transcript of Oral Aral Argument* at 11:line 1-5, *People v. James Horton,* (2015)(15-6705)(March 23, 2016).

During same hearing, Petitioner orally supported, presenting facts, accounting for approximately over 10 months bad-faith delay accrued beyond statutory requirements defined pursuant to PC § 1382 prima facies, and over a period of two years (*Transcript of Oral Aral Argument* at 26:line 6-33:line 7, *People v. James Horton,* (2013)(13-0003628)(November 04, 2015); Augmented Transcript at 15:line 19 – 18:line 28, *Supra)*. "Defendant's right to speedy trial cannot be stifled by procrastination or neglect by public officials" (*Jackson v Superior Court* (1991) 230 Cal. App.3d). Also, he orally supported that all his motions were timely and with merit addressing issues as rightful defense.

In lieu of aforesaid, the Judge grossly abused discretion dismissing with total ignorance Petitioner's oral argument – thusly, the court maliciously prejudiced Petitioner's fundamental right to Due Process respective to his pretrial motion practice.

JUDGE PREJUDICIALLY ERRED BY PRIMARILY BASING HIS DENIAL UPON FALSIFICATION OF THE FACTS

As verbalized during proceedings upon motion at issue on 11042015, respondent judge based denial primarily upon alleged assertion that Petitioner previously signed a general waiver to his Rights to Speedy Trial pursuant to PC section 1382 during pendency in this case. (*Transcript of Oral Aral Argument* at 33:line 16 – 33:line 18, *People v. James Horton,* (2013)(13-0003628)(November 04, 2015); Augmented Transcript at 19:line 5, *Supra)*.

This was blatant untruth falsifying the facts. In fact, Petitioner never did sign waiver as mentioned briefly in text of PC section 1382. Furthermore, he did immediately address said issue objecting thusly; evading the issue, the judge closed hearing without a response. (*Transcript of Oral Aral Argument* at 39:line 2, *People v. James Horton,* (2013)(13-0003628)(November 04, 2015); Augmented Transcript at 22:line 1, *Supra)*.

Therefore, respondent court grossly abused discretion maliciously as prosecutorial and judicial misconduct.

DEFENDANT IS PREJUDICED BY PROLONGED RESTRAINT OF LIBERTY TO AN AREA

In conclusion, proceeding on this action would not serve justice, but only prejudice the Defendant in that the delays are causing undue disruption to his life without justifiable cause. At time of arrest, defendant did not have outstanding warrants, nor a criminal record. Charge is minor based on minimal evidence. As a matter of fact, the first charge -- stemming from an anonymous, citizen informant's dispatch call -- was dropped having no merit before arraignment. Defendant is not even resident of area but was traveling through at time of incident at question. He intends to move on while his liberty is restrained to the area, by inordinate delay, as an indigent without income. Furthermore, Defendant is forced by necessity to self-represent (as described in previous Faretta Motion) in such circumstances – his opportunities for employment are disrupted, his associations (such as Church affiliations) are curtailed. The drawnout procedural harassments, as above, are prejudicing the defendant with excessive anxiety inducement. Also, it would belabor the Court with unnecessary expense of time and resources – and over minor charge with little merit. Therefore, zealous prosecution would serve to only confirm Defendant's assertions concerning a pretextual arrest with motives toward malicious, retaliatory, prosecutorial misconduct.

According to Serna, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (Serna v Superior Court (1985) 40 C3d 239). Therefore, it would be in the interest of justice for the Court to dismiss the charge.

Date: _____ Respectfully submitted,

James E. Horton, In Persona Propria

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TABLE OF EXHIBITS

EXHIBIT	
A	NOTICE OF MOTION TO DISMISS BECAUSE OF DENIAL OF SPEEDY TRIAL
B	COMMON LAW MOTION TO DISMISS BECAUSE OF RIGHT TO SPEEDY TRIAL, DUE PROCESS AND FAIR TRIAL
C	REPORTER'S TRANSCRIPT OF MOTION PROCEEDINGS